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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2008-371

11 **MELISSA MARIE SEPULVEDA**

12 7361 Siena Drive
13 Huntington Beach, CA 92648

A C C U S A T I O N

14 Registered Nurse License No. 542073

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
20 (Board), Department of Consumer Affairs.

21 2. On or about March 24, 1998, the Board issued Registered Nurse License
22 Number 542073 to Melissa Marie Sepulveda (Respondent). The Registered Nurse License will
23 expire on January 31, 2010, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board under the authority of the
26 following laws. All section references are to the Business and Professions Code (Code) unless
27 otherwise indicated.
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1 8. Section 2762 of the Code states:

2 "In addition to other acts constituting unprofessional conduct within the meaning
3 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
4 under this chapter to do any of the following:

5 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
6 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
7 or administer to another, any controlled substance as defined in Division 10 (commencing with
8 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
9 defined in Section 4022.

10 "(b) Use any controlled substance as defined in Division 10 (commencing with
11 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
12 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
13 injurious to himself or herself, any other person, or the public or to the extent that such use
14 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
15 license.

16 "(c) Be convicted of a criminal offense involving the prescription, consumption,
17 or self-administration of any of the substances described in subdivisions (a) and (b) of this
18 section, or the possession of, or falsification of a record pertaining to, the substances described in
19 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
20 thereof.

21 "(d) Be committed or confined by a court of competent jurisdiction for
22 intemperate use of or addiction to the use of any of the substances described in subdivisions (a)
23 and (b) of this section, in which event the court order of commitment or confinement is prima
24 facie evidence of such commitment or confinement.

25 9. California Code of Regulations, title 16, section 1444, states:

26 "A conviction or act shall be considered to be substantially related to the
27 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
28 present or potential unfitness of a registered nurse to practice in a manner consistent with the

1 public health, safety, or welfare.”

2 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
3 request the administrative law judge to direct a licensee found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Convictions)**

8 11. Respondent’s license is subject to discipline under Code sections 490,
9 2762, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444,
10 in that Respondent was convicted of crimes which are substantially related to the qualifications,
11 functions, and duties of a registered nurse. The circumstances are as follows:

12 a. On or about November 13, 2007, in the Superior Court of California,
13 County of Los Angeles, in the case entitled *People of the State of California v. Melissa Marie*
14 *Sepulveda*, Case No. 7LG10783, Respondent was convicted on her plea of *nolo contendere* of
15 violating Penal Code section 647(F) (public intoxication), a misdemeanor. The court placed
16 Respondent on summary probation for 1 year, and ordered her to serve 5 days in jail.

17 b. The circumstances of the crime are that on or about November 9, 2007, a
18 police officer observed Respondent to be loitering and drinking alcohol at a bus stop. Upon
19 questioning, she was unable to respond to the officer’s questions in a reasonable manner..

20 c. On or about May 14, 2008, in the Superior Court of California, County of
21 Orange, West Justice Center, in the case entitled *People of the State of California v. Melissa*
22 *Marie Sepulveda*, Case No. 07WM08942, Respondent was convicted on her plea of guilty of
23 violating Vehicle Code section 23152(A) (driving under the influence) and Vehicle Code section
24 23152(B) (driving with BAC >0.08%), both misdemeanors. The court placed Respondent on 3
25 years summary probation and ordered Respondent to serve 3 days in jail.

26 d. The circumstances are that on or about April 25, 2007, Respondent was
27 reported by her family members who observed her driving under the influence of vodka. She
28 admitted to the arresting officers that she had been drinking and driving.

1 e. On or about June 20, 2002, in the Superior Court of California, County of
2 San Bernardino, East District, in the case entitled *People of the State of California v. Melissa*
3 *Marie Sepulveda*, Case No. MRE013060, Respondent was convicted on her plea of *nolo*
4 *contendere* of violating Business and Professions Code section 4324 (A) (forgery of
5 prescription).

6 f. The circumstances are that on or about July 24, 2001, Respondent forged a
7 prescription in the name of another.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Obtain/Possess Drugs in Violation of Law)**

10 12. Respondent's license is subject to discipline under Code section 2672,
11 subdivision (a) for unprofessional conduct, in that she obtained and/or possessed controlled
12 substances and dangerous drugs. The circumstances are as described above in paragraph 11 (e)-
13 (f) and below.

14 a. In or about January 2007, while working as a registered nurse at Hoag
15 Hospital, Respondent was terminated for diverting Percodan, a controlled substance and
16 dangerous drug within the meaning of Business and Professions Code section 4022.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Dangerous Use of Alcohol/Drugs)**

19 13. Respondent's license is subject to discipline under Code section 2672,
20 subdivision (b) for unprofessional conduct, in that she used controlled substances, dangerous
21 drugs and/or alcoholic beverages in a manner dangerous to herself and to the public. The
22 circumstances are as described in paragraphs 11-12 above.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Convictions Involving Alcohol/Drugs)**

25 14. Respondent's license is subject to discipline under Code section 2672,
26 subdivision (c) for unprofessional conduct, in that she was convicted of crimes involving the
27 prescription, consumption, and/or self-administration of controlled substances, dangerous drugs
28 and/or alcoholic beverages. The circumstances are as described in paragraphs 11-12 above.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Confinement for Use of Alcohol/Drugs)**

3 15. Respondent's license is subject to discipline under Code section 2672,
4 subdivision (d) for unprofessional conduct, in that she was confined by a court of competent
5 jurisdiction for her intemperate use of or addiction to alcoholic beverages. The circumstances are
6 as described in paragraph 11 above.

7 **FACTORS IN AGGRAVATION**

8 16. To determine the degree of discipline to be imposed, if any, Complainant
9 further alleges the following:

10 17. On or about April 23, 2007, Respondent enrolled in the Board's Diversion
11 Program and was terminated on or about November 21, 2007 as a public safety risk for having
12 multiple relapses.

13 **PRAYER**


14 WHEREFORE, Complainant requests that a hearing be held on the matters herein
15 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

16 1. Revoking or suspending Registered Nurse License Number 542073, issued
17 to Melissa Marie Sepulveda;

18 2. Ordering Melissa Marie Sepulveda to pay the Board of Registered Nursing
19 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
20 Professions Code section 125.3;

21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: 6/24/08

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25 RUTH ANN TERRY, M.P.H., R.N.
26 Executive Officer
27 Board of Registered Nursing
28 Department of Consumer Affairs
State of California
Complainant